IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

KATHLEEN CARR, KEEGAN KILLORY, and KELSIE POWELL, individually and on behalf of all similarly situated persons,)))
Plaintiffs,)
v.) No. CIV-23-99-R
OKLAHOMA STUDENT LOAN AUTHORITY; and)))
NELNET SERVICING, LLC,)
Defendants.)

ORDER

Before the Court is Plaintiffs' Motion to Strike Affirmative Defenses [Doc. 66]. Defendants responded separately with substantively identical arguments [Docs. 72, 76]. The Court DENIES Plaintiffs' Motion to Strike as MOOT.

The Court agrees with Defendants that the Motion is procedurally moot. Defendant Nelnet Servicing, LLC, filed an amended answer [Doc. 68] following the Plaintiffs' Motion to Strike, and Defendant Oklahoma Student Loan Authority did the same [Doc. 73]. These amended answers supersede the previous answers within which the Plaintiffs move to strike affirmative defenses. *Nuvio Corp. v. Broadsoft, Inc.*, No. 09-2126, 2009 WL 1870883 at *1 (D. Kan. June 29, 2009) (citing *United States ex rel. Babb v. Northrop Grumman Corp.*, No. 06–CV–00581, 2007 WL 1793795 at *1 (D. Colo. June 19, 2007)). Accordingly, Plaintiffs' Motion is moot.¹

¹ Furthermore, the Court would be disinclined to grant the Motion to Strike even if it were directed at the now-amended pleadings. Within the Tenth Circuit, motions to strike are "disfavored and infrequently granted." *United States v. Hardage*, 116 F.R.D. 460, 463 (W.D. Okla. 1987). Plaintiffs do not demonstrate they will suffer significant prejudice due to the affirmative defenses,

Plaintiffs' Motion to Strike Affirmative Defenses [Doc. 66] is DENIED as MOOT.

IT IS SO ORDERED this 4th day of January 2024.

DAVID L. RUSSELL

UNITED STATES DISTRICT JUDGE

and thus, the motion would be denied. *See <u>Pendergraft v. Bd. of Regents of Oklahoma Colleges</u>*, No. 18-793, 2020 WL 1528235 at *1 (W.D. Okla. Mar. 30, 2020).